UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,959	07/17/2003	Milton Silva-Craig	15-IS-5715 (13035US02)	2022

23446 7590 03/26/2007 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661	EXAMINER
	CAO, PHUONG THAO

ART UNIT	PAPER NUMBER
2164	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	10/621,959	SILVA-CRAIG ET AL.
	Examiner	Art Unit	
	Phuong-Thao Cao	2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *03 January 2007*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *37-42,53,54 and 57* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *37-42, 53, 54 and 57* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a) ☐ All   b) ☐ Some * c) ☐ None of:

　　　　1. ☐ Certified copies of the priority documents have been received.

　　　　2. ☐ Certified copies of the priority documents have been received in Application No. _____.

　　　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is in response to Amendment filed on 1/3/2007.

2.   Claims 37-54 and 57 are pending.

Election/Restrictions

3.   Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I.   Claims 37-42 and 53, 54 and 57, drawn to a system/method for restoring data,

   classified in class 707, subclass 202.

   II.   Claims 43-52, drawn to a method for distributed or remote access, classified in

   class 707, subclass 10.

The inventions are distinct, each from the other because of the following reasons:

4.   Inventions I and II are related as subcombinations disclosed as usable together in a single

combination. The subcombinations are distinct if they do not overlap in scope and are not

obvious variants, and if it is shown that at least one subcombination is separately usable. In the

instant case, subcombination II has separate utility such as detecting the installation of a second

data source. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where

applicant elects a subcombination and claims thereto are subsequently found allowable, any

claim(s) depending from or otherwise requiring all the limitations of the allowable

subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

5.   Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

6.   Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

7.   During a telephone conversation between Primary Examiner Jean M. Corrielus and Attorney Christopher N. George (Reg. No. 51,728) on 3/15/2007, a provisional election was made without traverse to prosecute the invention of Group I, claims 37-42, 53, 54 and 57. Affirmation of this election must be made by Applicant in replying to this Office action. Claims 43-52 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Response to Arguments

8.   Applicant's arguments with respect to claims 37-42, 53, 54 and 57 have been considered

but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

10.   Claims 37-39, 42, 53, 54 and 57 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Cluff et al. (US Patent 7,089,449) in view of Vahalia et al. (US Patent

6,973,455).

        As to claim 37, Cluff et al. teaches:

"A method for restoring data to a data source from a remote data store" (see Abstract), said

method comprising:

        "detecting an error in accessed data with a status monitor, wherein said status monitor is

adapted to monitor operations occurring at said data source" (see [column 4, lines 20-30]

wherein a node is a data source and function of the operating system to detect a fault is equivalent to Applicant's "status monitor");

"transferring a copy of said data from a remote data store to said data source based on a trigger, wherein said trigger is produced by said status monitor when said error is detected" (see [column 2, lines 25-40 and 50-67], [column 4, lines 30-55] and Fig. 1) wherein remote backup system is equivalent to Applicant's "remote data store");

"restoring said data by replacing said data at said data store with said copy of said data" (see [column 2, lines 25-41] and [column 4, lines 50-57]).

Cluff et al. does not teach data as specifically as medical data.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Cluff et al to handle medical data since medical data is a type of data and the recoverability of data is even more important in medical field wherein the correctness and entirety of medical data plays a significant role in diagnosis and treatment.

Cluff et al. as modified does not teach "arbitrating access to said medical data among multiple data requests".

Vahalia et al. teaches arbitrating data access requests (see [column 35, lines 25-30]).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Cluff et al. as modified by the teaching of Vahalia et al. to add the feature of arbitrating access to said medical data among multiple data requests since this feature allows the system to control effectively data access and process more effectively multiple requests.

As to claim 38, this claim is rejected based on arguments given above for rejected claim 37 and similarly rejected including the following:

Cluff et al. as modified teaches:

"obtaining said medical data at said data source and storing said medical data at said remote data source" (see Fig. 1 and [column 2, lines 41] where a node is a data source and the backup storage system is equivalent to Applicant's "remote data source").

As to claim 39, this claim is rejected based on arguments given above for rejected claim 37 and similarly rejected including the following:

Cluff et al. as modified teaches:

"copying said medical data to a second data source" (see [column 2, lines 25-41] and Fig. 1 wherein item 20 (or Node 14) in the backup storage system is equivalent to Applicant's "second data source"; also see [column 4, lines 50-55]).

As to claim 42, this claim is rejected based on arguments given above for rejected claim 37 and similarly rejected including the following:

Cluff et al. as modified teaches:

"transferring said medical data from a directory representative of said data source at said remote data store to said data source" (see [column 2, lines 30-42] and Fig 1 wherein node (item 14) is a data source, the backup storage system is a remote data store, and Note 14 (item 30) in the backup storage system (item 20) is equivalent to a directory representative of data source as illustrative in Applicant's claim language).

As to claim 53, Cluff et al. teaches:

"A remote data retrieval system" (see Abstract), said system comprising:

"a centralized remote data store for storing data, the centralized remote data store storing data from a first data source" (see Fig. 1 wherein each node in the network as well as items 30, 32 or 34 in the backup storage system is equivalent to Applicant's "first data source" and the backup storage system is equivalent to Applicant's "centralized remote data store");

"a second data source providing data" (see [column 2, lines 24-42] and Fig. 1 wherein any node in the network as well as items 30, 32 or 34 can be considered as a second data source); and

"a status monitor for controlling a transfer of the data from the centralized remote data store to the second data source, wherein the status monitor is adapted to detect an error in accessed medical data at the second data source, wherein the status monitor is adapted to trigger a restoration of data from the centralized remote data store to the second data source" (see [column 2, lines 25-40 and 50-67], [column 4, lines 20-30] and Fig. 1] wherein a node is a data source and wherein remote backup system is equivalent to Applicant's "remote data store").

Cluff et al. does not teach data as specifically as medical data.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Cluff et al to handle medical data since medical data is a type of data and the recoverability of data is even more important in medical field wherein the correctness and entirety of medical data plays a significant role in diagnosis and treatment.

Cluff et al. as modified does not teach "wherein the status monitor is adapted to arbitrate access to the medical data among multiple data requests".

Vahalia et al. teaches arbitrating data access requests (see [column 35, lines 25-30]).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Cluff et al. as modified by the teaching of Vahalia et al. to add the feature of arbitrating access to said medical data among multiple data requests since this feature allows the system to control effectively data access and process more effectively multiple requests.

As to claim 54, this claim is rejected based on arguments given above for rejected claim 37 and similarly rejected including the following:

Cluff et al. as modified teaches:

"wherein the first data source is equivalent to the second data source" (see Fig. 1 wherein Node (item 14) is a first data source and Node 14 (item 30) in the backup storage system is a second data source; also see [column 2, lines 25-40]).

As to claim 57, this claim is rejected based on arguments given above for rejected claim 53 and similarly rejected including the following:

Cluff et al. as modified teaches:

"wherein the centralized remote data store stores the medical data in a directory representative of the first data source" (see [column 2, lines 30-42] and Fig 1 wherein the directory representative of the first data source is, for example, node 14 (item 30) in item 20).

11.   Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cluff et al. (US

Patent 7,089,449) in view of Vahalia et al. (US Patent 6,973,455) as applied to claim 37 above,

and further in view of Levi et al. (US Patent 6,804,778).

        As to claim 40, this claim is rejected based on arguments given above for rejected claim

37 and similarly rejected including the following:

        Cluff et al. and Vahalia et al. do not teach:

        "verifying said transferring of medical data from said remote data store to said data

source".

        Levi et al. teaches

        "verifying said transferring of medical data from said remote data store to said data

source" (see [column 7, lines 60-65], [column 8, lines 56-60] and [column 13, lines 20-30]).

        It would have been obvious to a person having ordinary skill in the art at the time the

invention was made to have modified Cluff et al. and Vahalia et al. by the teaching of Levi et al.

to add the feature of verifying said transferring of medical data from said remote data store to

said data source since this feature provides an effective way to control the validity and

correctness of data during transmission between systems.

12.   Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cluff et al. (US

Patent 7,089,449) in view of Vahalia et al. (US Patent 6,973,455) as applied to claim 37 above,

and further in view of Jamroga et al. (US Patent No 6,574,742).

As to claim 41, this claim is rejected based on arguments given above for rejected claim 37 and similarly rejected including the following:

Cluff et al. and Vahalia et al. do not teach:

"authenticating access to said remote data store".

Jamroga et al. teaches:

"authenticating access to said remote data store" (see [column 13, lines 1-10]).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Cluff et al. and Vahalia et al. by the teaching of Jamroga et al. to add the feature of authenticating access to said remote data store since this feature provides an effective way to control access to the system. As a result, the system is more secure.
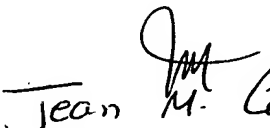
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong-Thao Cao whose telephone number is (571) 272-2735. The examiner can normally be reached on 8:30 AM - 5:00 PM (Mon - Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PTC

March 16, 2007

Jean M. Cornelus
Primary Examiner
Art Unit 2162